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## **Illicit Discharge Detection and Elimination Response Plan**

Illicit discharges will be detected through field assessments, investigation of complaints, and from monitoring data. Illicit discharges include any discharge to the municipal storm system that is not rain or snowmelt, with a few exceptions allowed under the City of Wenatchee Code Section 4.10. An illicit discharge may include a connection to the system that has been in place for an extended period of time, such as a manufacturer with a connection that is hard piped to the storm infrastructure; or it may be a discharge released directly to a catch basin or an area with the potential to run into surface water. Illicit discharges from construction activities are covered under a separate program.

### **I. Response Timeline**

The city will respond on average within 7 days. The response may include an investigation by the responsible jurisdiction or a referral of the violation to another appropriate agency such as the local emergency response team or Department of Ecology. Illicit connections and discharges to the storm sewer system involving hazardous materials must be investigated no later than 21 days from the time of the initial report or discovery.

### **II. Field Investigation Steps**

While conducting any field investigation, city staff are required to follow all safety procedures. Before entering private property, city staff will attempt to contact the property owner.

- 1) Locate the illicit discharge and begin documentation.
  - a) Look for possible infrastructure connections
  - b) Did the spill discharge to a water body?
- 2) Determine the level of hazard and if additional help is needed. This can be done by surveying the immediate area for the source of the discharge, looking for physical characteristics including odor, color, staining of floatable material, or pulling samples for field testing such as pH, residual chlorine, turbidity or temperature.
  - a) If hazardous, immediately call 911 and the DOE Spill Response Team
  - b) If non- hazardous, look for the responsible party.
  - c) If a responsible party is not present or able to handle the discharge, contact additional city staff as needed.
    - i) Large Volume & Non-hazardous—Public works crews
    - ii) Non-hazardous, small volume under 18" diameter—Environmental & public works crews
- 3) Look for ways to contain or stop the discharge.
- 4) If the source of the discharge is not clear, use one of the following methods for tracking the discharge:
  - a) Inspect area and storm drain system using the storm sewer system map and inventory
  - b) Trace using an identified characteristic: pH, color, or damage to infrastructure.
  - c) Sample collection
  - d) Video inspection of storm sewer
  - e) Dye testing
  - f) Review aerial photographs

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## **III. Document field investigation**

Documenting an incident of illicit discharge begins at the time the report is acknowledged and continues throughout the investigation, clean-up, and enforcement of the incident. Initially the incident is documented on a stormwater complaint spreadsheet. If this is not done by the person receiving the phone call, it will be done by the environmental manager or environmental technician who receives the forwarded complaint.

Documentation of the field investigation not only includes written documentation, but also may include photographs of the spill location and any infrastructure or water bodies associated with the illicit discharge. Sample collection for laboratory analysis may also occur at this time. If sampling is necessary they need to be pulled and analyzed within an appropriate timeframe to assure the data is valid. Chain of Custody forms need to be completed for all samples.

## **IV. Notify DOE**

If there is a discharge to the storm system with potential harm to health or the environment, it is required that the DOE be notified within 24 hours. Any water quality violations require notification of DOE in writing within 30 days of the incident.

## **V. Disposal of cleanup materials**

The party responsible for the illicit discharge is also responsible for cleanup of the discharge. The environmental department may provide technical assistance such as DOE contacts, hazardous waste contractors, materials for cleanup, etc. Cleanup materials must be disposed of in a proper manner. The hazardous waste may need to be disposed of by a hazardous waste contractor.

## **VI. Equipment**

The appropriate vehicles are maintained continuously with spill response equipment necessary to clean a non-hazardous small spill. Field testing and sampling equipment is also maintained in the vehicles. Additional equipment may be needed depending on the level of hazard of spill, particularly a large or hazardous spill that requires the street, utility, collection or professional clean-up crew.

## **VII. Enforcement**

Enforcement actions for an illicit discharge will follow provisions of Chapter 4.10.090 of Wenatchee City Code and the IDDE Enforcement Action Plan. Actions may include verbal/written warnings, administrative action, fines and/or cost recovery, and legal action.

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## Stormwater IDDE Report & Response

### I. Incident Report

Date/Time: \_\_\_\_\_ AM / PM      Received By: \_\_\_\_\_

Location: \_\_\_\_\_

Initial Report of Conditions: \_\_\_\_\_

Reported By: \_\_\_\_\_ Phone: \_\_\_\_\_

### II. Investigation

Date: \_\_\_\_\_ By: \_\_\_\_\_

Storm Drain ID/Outfall: \_\_\_\_\_

Entered Storm Drain System/Receiving Waters? \_\_\_\_ Yes \_\_\_\_ No

#### Material Type

- ☐ Hazardous
- ☐ Sediment
- ☐ Wastewater
- ☐ Oil/Grease
- ☐ Other \_\_\_\_\_
- ☐ Unknown

Est. Quantity: \_\_\_\_\_

Additional Information: \_\_\_\_\_

Sample(s) Collected: \_\_\_\_ Yes \_\_\_\_ No

#### Observed Land Use

- ☐ Residential
- ☐ Commercial/Industrial    Stormwater Permit \_\_\_\_ Yes \_\_\_\_ No \_\_\_\_ Unknown
- ☐ Public

Direct/Constructed Connections Found? \_\_\_\_ Yes \_\_\_\_ No

Description: \_\_\_\_\_

Source/Responsible Party: \_\_\_\_\_

### III. Action and Closure

Referred To: \_\_\_\_\_ Date: \_\_\_\_\_

Action Taken: \_\_\_\_\_

Date Closed: \_\_\_\_\_

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## City of Wenatchee Enforcement Action Plan

September 24, 2009

### I. Purpose:

The purpose of the Enforcement Action Plan (EAP) is to set forth the City of Wenatchee's policies and procedures for investigating and responding to instances of noncompliance with regards to the city's municipal separate storm sewer system (MS4)

Specifically, the EAP:

- Establishes guidelines for appropriate enforcement actions to ensure consistent and equitable responses and that violations are corrected in a timely manner;
- Identifies the City staff members responsible for responding to instances of noncompliance; and
- Reflects the City's responsibility to enforce all applicable standards and requirements to protect human health, the storm sewer system, and the Columbia River.

### II. References

1. Clean Water Act (33 U.S.C. 1251 et seq.)
2. Wenatchee City Code 4.10

### III. Administration

The EAP will be administered by the Environmental Manager under the supervision of the Public Works Director. Documentation of inspections and enforcement actions will be kept electronically and in files maintained by the Environmental Division. Staff responsibilities for responding to violations and enforcement actions can be found in Appendix A: Enforcement Response Guide.

### IV. Means of Detection

Instances of noncompliance will be detected by the following means:

1. Detection by city staff
2. Notification of a spill/accidental discharge
3. Complaint by a citizen or business
4. Detection through random & targeted monitoring
5. Detection during an inspection of an industrial or commercial facility

### V. Investigation & Response

#### A. Investigation

Investigations will be conducted in accordance with the Illicit Discharge Detection and Elimination Response Plan.

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## B. Response

The City of Wenatchee will respond on average within 7 days. Illicit connections and discharges to the storm sewer system involving hazardous materials must be investigated no later than 21 days from the time of the initial report or discovery. Suspected violations and complaints will be thoroughly investigated before enforcement action is taken.

## VI. Enforcement Actions

### A. Available Enforcement Actions

The following enforcement actions (EA) are allowed by Wenatchee City Code 4.10:

- Voluntary Compliance Agreement (VCA)
- Notice of Violation (NOV)
- Emergency Cease and Desist Orders
- Suspension of Storm Sewer Services
- Compensatory Action
- Recovery of Costs
- Civil Penalties
- Criminal Prosecution

In addition, the City has the right to take any, all or any combination of these actions concurrently or sequentially against a non-compliant user or take other actions as warranted by the circumstances.

When a violation is presented to the code enforcement board, the person receiving the violation has a right to speak at the hearing and appeal the decision of the board. The decision of the code enforcement board shall be final unless within 21 days of the date of the decision a valid land use petition is filed with the superior court of Washington for Chelan County seeking judicial review pursuant to the requirements of the laws of the state of Washington. In the case of a VCA, the right to an appeal is waived.

### B. Criteria for determining EA

The following criteria along with the Enforcement Response Guide in Appendix A will be used to determine the appropriate EA:

- Magnitude of the violation
- Duration of the violation
- Effect of the violation on the Columbia River
- Effect of the violation on the storm sewer system
  - Causes damage to the system
  - Causes a violation of the NPDES permit
- Compliance history of the person(s)
- Good faith of the person(s)

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If a person appears to be acting in good faith to comply with the requirements, enforcement actions should be on a more cooperative level than if the person does not appear to be acting in good faith. However, one should be aware that the Clean Water Act requires exemplary efforts to comply with its requirements in a timely way. Congress expresses the standard by which good faith must be measured:

*The Act requires industry to take extraordinary efforts if the vital and ambitious goals of the Congress are to be met. This means that business as usual is not enough. Prompt, vigorous, and in many cases, expensive pollution control measures must be initiated and completed as promptly as possible. In assessing the good faith of a discharger, the discharger is to be judged against these criteria. Moreover, it is an established principle, which applies to this act, that administrative and judicial reviews are sought on the discharger's own time.*

## Legislative History of the Clean Water Act

Number 95-14, Volume 3, Page 463

Therefore, if a person challenges a requirement and delays progress toward compliance, the person is assuming the risk that it will be upheld on judicial review. If a decision is not made in favor of the person and it is only after the adverse decision that the person proceeds aggressively to come into compliance, the person cannot be considered to have acted in good faith. Additionally, if a person follows business as usual procedures, it cannot be considered to have acted in good faith.

### C. Reporting to Department of Ecology

The following instances of the noncompliance will be reported to the appropriate division of the WA State Department of Ecology:

- Violations resulting in NPDES permit violations
- Violations involving hazardous waste

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## **City of Wenatchee List of Priority Areas and Outfalls**

Fourteen outfalls are located within Wenatchee city limits and discharge to the Columbia River or infiltration facilities. These locations have been separated into three levels of Priority (High, Medium, and Low). The outfalls within each of the three levels were then prioritized. The following criteria were used for prioritizing the outfalls:

1. *Potential public risk*
2. *Potential for erosion or damage to the outfall*
3. *Land Use*
  - a. *Commercial Industrial*
  - b. *Residential*
4. *Past illicit discharges*

The Field Assessment Prioritization List is as follows:

### **I. High Priority**

- a. *Ninth*
- b. *Chehalis*
- c. *First*
- d. *Fifth*
- e. *Walla Walla*
- f. *Maiden*

### **II. Medium Priority**

- a. *Thurston*
- b. *Peachy*
- c. *Snohomish*

### **III. Low Priority**

- a. *Worthen*
- b. *Hawley*
- c. *Yakima*
- d. *Stevens*
- e. *Crawford*

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# Outfall Field Survey Report

OUTFALL NAME \_\_\_\_\_ DATE \_\_\_\_\_ TIME \_\_\_\_\_

DIRECTIONS \_\_\_\_\_

WEATHER \_\_\_\_\_ SAFETY HAZARDS \_\_\_\_\_

INSPECTORS \_\_\_\_\_

	Y	N
OUTFALL VISIBLE	<input type="checkbox"/>	<input type="checkbox"/>
UNDER WATER	<input type="checkbox"/>	<input type="checkbox"/>
FLOW	<input type="checkbox"/>	<input type="checkbox"/>
DYE TESTED	<input type="checkbox"/>	<input type="checkbox"/>
DYE FOUND	<input type="checkbox"/>	<input type="checkbox"/>

NOTES: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

PICTURES TAKEN	<input type="checkbox"/>	<input type="checkbox"/>
SAMPLES TAKEN	<input type="checkbox"/>	<input type="checkbox"/>
NEEDS MAINTENANCE	<input type="checkbox"/>	<input type="checkbox"/>
GPS POINT ACCURATE	<input type="checkbox"/>	<input type="checkbox"/>

COMMENTS: \_\_\_\_\_

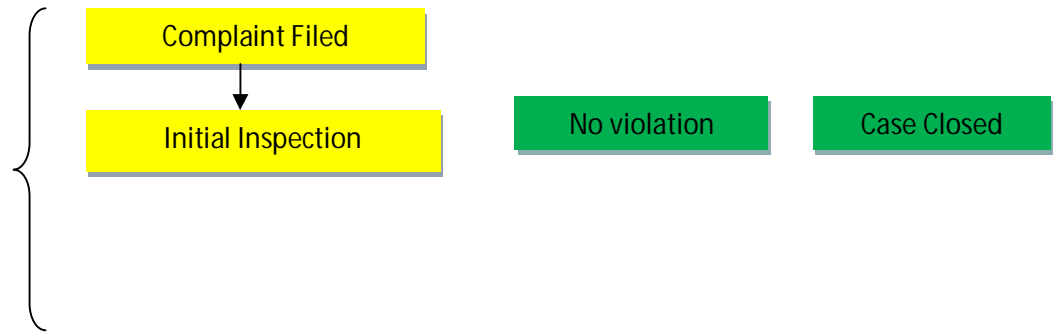
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INSPECTOR SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

INSPECTOR SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_



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# Code Enforcement Flow Chart For Compliance

